



February 9, 2017

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Communication, MB Docket Nos. 13-236, 14-50, 09-182, 07-294, 04-256

Dear Ms. Dortch:

On February 7, 2017, Rick Kaplan and Erin Dozier of the National Association of Broadcasters (NAB) met with Michelle Carey, Mary Beth Murphy, Brendan Holland, and Benjamin Arden of the Media Bureau.

During the meeting, NAB representatives discussed broadcasters' leading priorities with regard to broadcast ownership. First, we urged the FCC to expeditiously reinstate the UHF discount.¹ As explained in filings by NAB and others in the UHF proceeding, the discount is not a standalone rule, but a methodology for calculating compliance with the national television ownership cap.² It was arbitrary and capricious for the Commission to eliminate the discount without considering the impact of that change on the rule itself, the policy goals it was intended to promote, and whether the rule continues to serve the public interest.³

¹ See Petition for Reconsideration of ION Media Networks, Inc. and Trinity Christian Center of Santa Ana, Inc., MB Docket No. 13-236 (Nov. 23, 2016).

² See, e.g., Comments of NAB, MB Docket No. 13-236 (Dec. 16, 2013) (NAB UHF Comments); Reply Comments of NAB, MB Docket No. 13-236 (Jan. 14, 2014); Letter from Rick Kaplan and Jerianne Timmerman of NAB to Marlene H. Dortch, FCC, MB Docket No. 13-236 (Jun. 23, 2016) (NAB Ex Parte); NAB Reply to Oppositions to Petition for Reconsideration, MB Docket No. 13-236 (Jan. 23, 2017). We note that NAB has taken (and continues to take) no position on whether the Commission should modify, maintain or eliminate its national television ownership cap. NAB UHF Comments at 2.

³ This is particularly important where, as here, the practical effect of its change is to make the national cap that broadcasters have relied upon more stringent. NAB UHF Comments at

Second, NAB urged the FCC to grant our Petition for Reconsideration in the quadrennial broadcast ownership review proceeding.⁴ As discussed in NAB's Petition and other filings, the vast and continuing changes across the media landscape dictate that the broadcast ownership rules be eliminated or substantially loosened. We again urged the FCC to adopt NAB's proposals to remove the eight-voices test from the local TV rule and reform the top four prohibition by allowing a single entity to own up to two of the top four-ranked stations in a local market; reverse the joint sales agreement attribution and shared services agreement disclosure requirements; and eliminate the newspaper/broadcast and radio/television cross-ownership rules.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'Rick Kaplan', with a long horizontal line extending to the right.

Rick Kaplan
General Counsel and Executive Vice President,
Legal and Regulatory Affairs
National Association of Broadcasters

cc: Michelle Carey, Mary Beth Murphy, Brendan Holland, Benjamin Arden

4, citing *FCC v. Fox Television Stations, Inc.*, 129 S.Ct. 1800, 1811 (2009) (agency must provide more detailed justification for changing policy “when its prior policy has engendered serious reliance interests that must be taken into account”); *Smiley v. Citibank (S.D.)*, N.A., 517 U.S. 735, 742 (1996) (“change that does not take account of legitimate reliance on prior interpretation may be ‘arbitrary, capricious [or] an abuse of discretion’”) (citations omitted).

⁴ NAB Petition for Reconsideration, MB Docket Nos. 14-50 et al. (Dec. 1, 2016) (Petition).